

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM-A 36637 (Tx).

Reversed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Drawings

Where two of three offerors sign a drawing entry card (DEC) in one of two signature boxes, and the third offeror signs in the other signature box provided on Form 3112-1, and the same date of signing is entered in each of the two appropriate boxes on the DEC for the date, adjacent to the two signature boxes, so that it is evident that the date applies equally to all three signatures on the card, the failure to enter a third date on the offer is not grounds for rejection of the DEC.

APPEARANCES: J. Richard Horner, Esq., Dallas, Texas, for appellants.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Eugene S. Ribbik, Spaulding Jones, and David Brown appeal from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated May 8, 1979, rejecting oil and gas lease offer NM-A 36637 (Tx).

Appellants' drawing entry card (DEC) was drawn with first priority for parcel NM 691 in the April 11, 1979, drawing of simultaneous oil and gas lease offers conducted by the New Mexico State Office. This offer was rejected by BLM, however, because either "Spaulding Jones or Eugene S. Ribbik did not comply with the regulations in that one of the applicants failed to complete the date on the entry card."

The authorized DEC, Form 3112-1 (April 1978), contains two spaces labeled "Signature of Applicant," each with an adjoining space labeled "Date" for use by an offeror in the simultaneous oil and gas leasing program. The DEC at issue contains the holographic signature of David Brown in one space designated for signature and the numbers "3-22-79" in the adjoining space indicating the date of Brown's signature. The second space designated for signature contains the holographic signatures of both Spaulding Jones and Eugene S. Ribbik. In the adjoining space indicating the date of signature are the numerals "3-22-79." Each available space on the DEC has been utilized by appellants.

In rejecting the subject DEC, BLM quoted from 43 CFR 3112.2-1 which states in part: "(2) Entry Card. Offers to lease such designated leasing units by parcel numbers must be submitted on a form approved by the Director, 'Simultaneous Oil and Gas Entry Card' signed and fully executed by the applicant or his duly authorized agent in his behalf." Hence, the basis for BLM's decision is the proposition that an offer is not fully executed unless each signature is individually dated.

This Board has consistently ruled that strict compliance with the above cited regulation is necessary. Robert J. Burkhill, 28 IBLA 76 (1976); Amy H. Hanthorn, 27 IBLA 369 (1976). On several occasions, we have held that the date on a DEC is important because it shows that as of a particular date, the offerors, by their signatures, certify all of the statements made on the card. Donald Miller, 40 IBLA 193 (1979); Thomas R. Flickinger, 40 IBLA 53 (1979); Thomas V. Gullo, 29 IBLA 126 (1977).

Donald Miller, *supra*, involved a DEC which was holographically signed by a single offeror who neglected to date his signature in the appropriate space on the offer. The absence of any date at all on the DEC caused BLM to properly reject this DEC for failure to comply with the requirement of "full execution" set forth in 43 CFR 3112.2-1.

An earlier case, Thomas V. Gullo, *supra*, arose from BLM's rejection of a DEC signed holographically in two boxes by two offerors who included only a single date on their DEC. In the face of the argument that the single date was intended to operate for both signatures, the Board affirmed BLM's rejection.

In Thomas R. Flickinger, *supra*, facsimile signatures of multiple offerors were affixed to various DEC's, each of which bore only a single date. The offers at issue in Flickinger were submitted on the identical form (3112-1) used in the instant case. The offerors therein neglected to fill in the date more than once on the DEC despite the availability of space to do so. BLM's decision rejecting the Flickinger offers was affirmed by this Board stating: "Where a drawing entry card is submitted in a simultaneous oil and gas lease drawing and signed by multiple offerors, the offer is properly

rejected if even a single offeror fails to enter the date of his signature on the drawing entry card." Accord, Robert B. Coen, 41 IBLA 55 (1979); Pamela W. Kay, 40 IBLA 240 (1979).

The facts in the case before us call for some refinement of the above quoted statement. Where, as here, two of three offerors sign a DEC in one of the two signature boxes and the third offeror signs in the other box provided on Form 3112-1, and the same date of signing is entered in each of the two appropriate spaces on the DEC for the date, adjacent to the two signature boxes, so that it is evident that the date applies to each of the three signatures, the failure to enter a third date on the DEC is not grounds for rejection. Appellants here filled in each available space on their DEC with the appropriate information. We cannot ask more. We hold, therefore, that the DEC of appellants may be accepted as the first qualified offer for parcel NM 691, all else being regular.

Our decision is consistent, we feel, with the recent decision of the Court of Appeals for the Tenth Circuit in Winkler v. Andrus, 594 F.2d 775 (1979). Therein at 779, the court chides this Department for a ruling founded on a "trivial and inconsequential point." Although the defect causing rejection of a DEC was different in Winkler, we feel the court's words may be equally applicable below. Accord, Christiansen Oil and Gas, Inc. v. Andrus, No. C78-257K (D. Wyo., Aug. 20, 1979) (order remanding for issuance of lease).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed.

Douglas E. Henriques
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Joseph W. Goss
Administrative Judge

